

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

MAR - 4 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

ORIGINAL

In the Matter of )

INTERCONNECTION BETWEEN LOCAL )  
EXCHANGE CARRIERS AND COMMERCIAL )  
MOBILE RADIO SERVICE PROVIDERS )

CC Docket No. 95-185

To: The Commission

DOCKET FILE COPY ORIGINAL

COMMENTS

Alliance of Wireless Services Providers ("Alliance"), by its attorney, hereby submits comments in the above-captioned matter in response to a Notice of Proposed Rule Making released by the Commission on January 11, 1996 (FCC 95-105) (hereafter the "NPRM").<sup>1/</sup>

Introduction

1. Members of the Alliance are licensees of Cellular Radiotelephone Service stations in Rural Service Areas or in small metropolitan markets. The Alliance submits these comments in support of Commission proposals designed to promote the availability and quality of wireless services offered by Commercial Mobile Radio Service ("CMRS") providers.

2. The NPRM expresses appropriate concern by the Commission that current policies related to interconnection between CMRS licensees and local exchange carriers ("LECs") do not accomplish

---

<sup>1/</sup> The Alliance members are listed at Attachment A to these Comments.

44

the Commission's goal to encourage development of CMRS. From experience of operation the Alliance will confirm in these Comments that the Commission's policy of "mutual compensation" has not achieved the intended goal. Instead, the establishment of a revised plan for compensation through a "bill and keep" arrangement between LECs and CMRS providers would be the best and only practical means to allow wireless services to reach their full potential.

**Well Intentioned Commission Policy Has Not  
Effectively Advanced Development of Wireless Services**

3. The cellular industry's rapid growth over the last 14 years was preceded by years of dispute and Commission rule making that effectively denied wireless service availability to all but a few dozen persons in each city.<sup>2/</sup> The regulatory barriers proved to be more formidable than the technical barriers to provision of wireless service and, during the years of rule making and licensing, LECs maintained their nearly exclusive position as providers of telecommunications services.

4. Finally, in 1981-1982, the Commission adopted the final rules which led to the acceptance of top-30 SMSA cellular applications. The Commission allocated two cellular frequency blocks per market, with one reserved at the application stage for

---

<sup>2/</sup> See Docket 18262.

landline carriers in the market.<sup>3/</sup> At the time, the Commission was keenly aware of the impact that interconnection terms would have upon the ability of wireless carriers to serve and compete in their license areas.

5. When finalizing rules for the acceptance of applications, the Commission anticipated the possibility that landline carriers would not offer interconnection to cellular carriers on terms which were pro-competitive.<sup>4/</sup> To give effect to a policy of "reasonable interconnection" requirements, every wireline applicant for a cellular license was required to include, as an additional exhibit in its cellular application, an explanation of "...exactly how its system will interconnect with the landline network."<sup>5/</sup> The purpose was to disclose to non-wireline cellular carriers how the wireline cellular licensee would interconnect its networks and allow the non-wireline to interconnect in an identical manner. The non-wireline cellular carrier was also free to negotiate other interconnection arrangements with the LEC.<sup>6/</sup>

---

<sup>3/</sup> Report and Order in CC Docket No. 79-318, 86 FCC 2d 469 (1981).

<sup>4/</sup> See, Memorandum Opinion and Order on Reconsideration, 89 FCC 2d 58 (1982) (hereafter the "Reconsideration Order," at paras. 47-51.

<sup>5/</sup> Reconsideration Order, para. 50.

<sup>6/</sup> Reconsideration Order at para. 51.

6. This general policy of basic fairness in interconnection was a sound foundation for the wireless industry, but cellular carriers found they had little bargaining position when it came to the negotiation of specific terms for interconnection agreements. Over the years the Commission was asked to be more clear, and to define the obligations of LECs and wireless carriers in interconnection arrangements.<sup>1/</sup> The Commission announced that LECs must negotiate "in good faith" and furnish interconnection for interstate traffic at "reasonable and non-discriminatory rates."<sup>8/</sup> More recently, the Commission adopted Part 20 of its rules to set forth general requirements and conditions applicable to CMRS providers. Section 20.11(b) of those rules states a requirement of "mutual compensation" by which LECs and CMRS providers shall pay "reasonable compensation" to one another for termination of traffic that originates on the other's network.<sup>2/</sup> Although clear in its direction to LECs and CMRS providers, the rule has proved inadequate in practice to achieve the goal of compensation payments by the respective carriers for terminating access.

---

<sup>1/</sup> The NPRM in this proceeding, at footnote 9, makes reference to a series of Commission rulings, policy statements and orders which contain guidance to the industry on principles for interconnection.

<sup>8/</sup> NPRM, para. 14.

<sup>2/</sup> See, Section 20.11(b) of the Commission's rules, effective July 18, 1994.

7. In the experience of Alliance members, LECs generally have not been agreeable to negotiation of compensation payments for a cellular carrier's termination of landline-originated traffic. Typically, the LEC demands payment from the cellular operator for originating as well as terminating a call if the landline network is used for any portion of the transmission. One Alliance member which pays the LEC both originating access (for calls inbound to the cellular customer) and terminating access (for cellular originated calls delivered over the landline network) was refused terminating access payments by that LEC which claimed it would consider payment "sometime in the future" when it may be of benefit to the LEC's customers. On another occasion, the same Alliance member was informed the LEC would consider payment for terminating access when 50% of the LEC's traffic was terminated on wireless networks. The LEC acknowledged there "appears to be a paradigm shift that will need to be considered sometime in the future." Underlying these statements is an uncooperative approach by the LEC to renegotiation of an interconnection agreement which is essential to the affected cellular carrier's operations. The Commission's complaint procedures could be invoked; however, the cost, delay and other effects of litigation have discouraged pursuit of a formal complaint to date. A better solution has now been proposed by the NPRM.

**A Bill and Keep Arrangement for Interconnection Rates Is  
Pro-Competitive and Administratively Efficient**

8. The Alliance supports the Commission's proposal for a "bill and keep" interconnection arrangement between LECs and CMRS providers. Implementation of bill and keep on at least an interim basis is an effective means to promote development of wireless services and competition in the public interest.

9. The development of wireless services will be stimulated if CMRS providers are able to originate and terminate traffic as true co-carriers with LECs, not as second-class networks relative to LEC networks. While the Commission has classified CMRS licensees as co-carriers in the delivery of traffic, current practices of large LECs are such that a CMRS provider has little bargaining position to obtain the benefits of co-carrier status. A bill and keep arrangement with LECs will vastly improve the current unworkable compensation policy.

10. The Commission has devoted substantial effort to bring benefits of competition to the public through licensing of additional wireless providers. Those benefits can be realized only if the Commission allows CMRS providers to interconnect and transport traffic efficiently. Essential to that efficiency is the avoidance of cumbersome interconnection rate determinations. As already noted in these Comments, CMRS providers for assorted reasons have indicated a reluctance to pursue compensation rights

through the Commission's complaint process, and it is not administratively efficient for the Commission to maintain or establish new compensation procedures which require rate determinations and complex dispute resolutions. LECs and CMRS providers have already demonstrated that they do not and will not agree on traffic termination access pricing, and that efficiency is usually more important than perfection in rate determination. This is why the bill and keep solution proposed in the NPRM is timely and appropriate, and best promotes competitive service offerings.<sup>10/</sup>

#### **Alternatives to the NPRM's Solution**

11. There is no better and practical resolution to the terminating access payment issue than the bill and keep solution proposed in the NPRM. Nevertheless, if the Commission ultimately concludes that it may not or should not adopt the bill and keep proposal, the next best solution to the access payment problem is establishment of a mandatory negotiation period between carriers, during which a bill and keep arrangement would be put into effect. Such a plan would eliminate the present inequities and provide an opportunity to observe and measure the traffic flow from one

---

<sup>10/</sup> Among the provisions of the Telecommunications Act of 1996 intended to encourage development of competitive markets is an obligation that LECs "...establish reciprocal compensation arrangements for the transport and termination of telecommunications." Bill Section 101, Communications Act Section 251(b)(5). The Commission's NPRM proposes an effective means to facilitate reciprocal compensation through bill and keep pricing.

network to the other while the parties negotiate another form of compensation agreement.

12. However, were the Commission to conclude that a bill and keep arrangement should not be adopted even for a negotiation period, it could alleviate the present inequitable situation by declaring that a CMRS licensee may charge a LEC the same rate for terminating access that the LEC charges the same CMRS licensee for terminating access. Originating access would not be payable by either party. The parties could then be ordered to file a schedule of charges with the Commission which would resolve any disputes through the complaint process. Under such a plan the CMRS provider should make payment to the LEC after offsetting the amount due to the CMRS provider from the LEC for traffic terminated on the wireless network (at least while the landline network terminates more traffic than the wireless network). Alternatively, the CMRS provider could render its own bill to the LEC, and the Commission could order reciprocal payments by both parties at the same rate until another agreement is negotiated. Unfortunately, if the LEC sets the rate too high, there will be a continuing barrier to the full development of wireless services. The Commission will need to consider other measures to discourage LEC practices which impede the growth of wireless services.



**Conclusion**

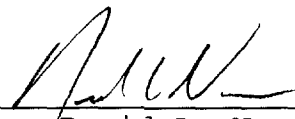
13. The NPRM proposes the most expedient solution to a continuing problem of interconnection rates commanded by LECs. Termination of landline-originated traffic on wireless networks is necessary and in the public interest, yet LECs refuse to pay compensation, let alone reasonable compensation, to CMRS providers.

14. A bill and keep arrangement for termination of traffic on landline as well as on wireless networks is pro-competitive and, for the carriers and the Commission alike, an administratively efficient system. Bill and keep avoids the need for rate determination proceedings, and minimizes the potential for disputes between carriers. As a form of "reciprocal compensation" which is mandated by the Telecommunications Act of 1996, a bill and keep arrangement represents the best available solution to a problem that otherwise would only increase in complexity as more wireless networks carry more traffic each year. The Commission should adopt its proposed solution and allow carriers to adapt to public demand

for a variety of telecommunications services.

Respectfully submitted,

**ALLIANCE OF WIRELESS SERVICES PROVIDERS**

By:   
David L. Nace

Its Attorney

LUKAS, MCGOWAN, NACE & GUTIERREZ, CHTD.  
1111 19th Street, N.W., 12th Floor  
Washington, D.C. 20036  
(202) 857-3500

March 4, 1996

**ALLIANCE OF WIRELESS SERVICES PROVIDERS**

LIBERTY CELLULAR, INC. d/b/a KANSAS CELLULAR  
(Kansas RSAs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 & 15)

BRISTOL BAY CELLULAR PARTNERSHIP (Alaska RSA 2, Market 316-B-2)

ENID MSA PARTNERSHIP (Enid, OK MSA, Market 302-B-1)

OKLAHOMA RSA 2 PARTNERSHIP (Oklahoma RSA 2, Market 597-B-1)

OKLAHOMA RSA 5 EAST PARTNERSHIP (Oklahoma RSA 5, Market 600-B-2)

OKLAHOMA RSA 6 PARTNERSHIP (Oklahoma RSA 6, Market 601-B-1)

BMCT, L.P. d/b/a BLUE MOUNTAIN CELLULAR (Oregon RSA 3, Market 608-A-1 and Washington RSA 8, Market 700-A-1)

NORTH CAROLINA RSA 3 CELLULAR TELEPHONE COMPANY d/b/a CAROLINA WEST CELLULAR (North Carolina RSA 2, Market 566-B-1 and North Carolina RSA 3, Market 567-B-1)

ETEX CELLULAR CO., INC. (Texas RSA 7, Market 658-B-4)

**CERTIFICATE OF SERVICE**

I, Loren Bradon, a secretary in the law office of Lukas, McGowan, Nace & Gutierrez, hereby certify that I have, on this 4th day of March, 1996, had a copy of the foregoing Comments hand-delivered to the following:

Chairman Reed E. Hundt  
Federal Communications Commission  
1919 M Street, NW, Room 814  
Washington, DC 20554

Commissioner James H. Quello  
Federal Communications Commission  
1919 M Street, NW, Room 802  
Washington, DC 20554

Commissioner Andrew C. Barrett  
Federal Communications Commission  
1919 M Street, NW, Room 826  
Washington, DC 20554

Commissioner Rachelle B. Chong  
Federal Communications Commission  
1919 M Street, NW, Room 844  
Washington, DC 20554

Commissioner Susan Ness  
Federal Communications Commission  
1919 M Street, NW, Room 832  
Washington, DC 20554

Rosalind K. Allen, Associate Bureau Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 5002  
Washington, DC 20554

David Furth, Acting Chief  
Commercial Wireless Division  
Federal Communications Commission  
2025 M Street, N.W., Room 7002  
Washington, DC 20554

Michelle Farquhar, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N. W.  
Room 5002  
Washington, D. C. 20554

A handwritten signature in cursive script, appearing to read "Loren Bradon", is written over a horizontal line.

Loren Bradon